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I. TERRITORY

1. The Portuguese Republic comprises continental Portugal, the territory defined by history on the European continent and the archipelagos of the Azores and Madeira. Although the Constitution of the Portuguese Republic establishes a unitary State, the autonomy of the local authorities and autonomous regions is respected; they have their own political and administrative statutes and self-governing organs.

2. There are also at present two territories that are no longer part of the national territory but are under Portuguese administration according to the principles of international law: Macao and East Timor. However, the status and current situation of each of these two territories are different.

3. Macao is a Chinese territory under Portuguese administration. Governed by a statute in keeping with its special status as long as it remains under Portuguese administration, it has its own judicial organization, based on autonomy and adapted to its special features, in conformity with the law, which must respect the principle of the independence of its judges. Portuguese administration will cease on 20 December 1999. That date and the formalities for the transfer of sovereignty were the subject of an agreement between the Governments of Portugal and the People's Republic of China. In April 1987, a solemn agreement was concluded through a Joint Declaration signed by the two Governments.

4. According to the Joint Declaration, the People's Republic of China agreed that, in conformity with the principle, "one country, two systems", Macao would in 1999 become a special administrative region of the People's Republic of China, where the following principles, in particular, would be applied:

(a) The social and economic system in force in Macao on 20 December 1999 would undergo no changes; the same principle would apply to the judicial system;

(b) The special administrative region of Macao would guarantee its inhabitants and other individuals in Macao, in conformity with the law, all the rights and freedoms that were in force on 20 December 1999, including freedom of expression, freedom of the press, assembly, association, movement and migration, the right to strike, the right freely to choose one's profession and to conduct academic research, freedom of religion and belief and education, the inviolability of the home and communications, access to the law and the judicial system, etc.

(c) The inhabitants of the region and other individuals living there would be equal before the law without distinction as to nationality, descent, sex, race, language, religion, political or ideological convictions, education, economic situation or social status.

These are examples of Portugal's desire to establish conditions for the protection of the fundamental rights of those living in Macao, even after 1999.

5. The other territory for which Portugal remains the Administering Power, according to the various resolutions of the General Assembly and other United Nations bodies, such as the Security Council and the Committee of 24, is the territory of East Timor. Since December 1975, however, Portugal has been prevented from administering East Timor because of the illegal invasion and occupation of the territory by the Indonesian army, against the will of the Timorese people and at the expense of the lives of all too many of its members. It should be noted that, at the time of the occupation, Portugal had been working to implement the decolonization process that would lead the Timorese people to the exercise of its legitimate right to self-determination, as took place in the other former Portuguese colonial possessions. Despite the fact that, in practice, it is being prevented from exercising its responsibilities of administering this as yet non-self-governing territory, the Portuguese Government is not neglecting its duties towards the Timorese people: at all legal and political levels, whether bilateral or multilateral, it is making every effort to ensure that the Timorese people's right to self-determination becomes a reality.

II. POPULATION

6. According to the data from the National Statistics Institute, relating to the latest general census conducted in 1991, the Portuguese population stood at 9,831,967 people, of whom 5,086,550 were females and 4,745,417 males.

7. While it recognizes the importance of the question of demographic composition, Portugal has, it should be mentioned, followed United Nations recommendations relating to the 1991 population censuses, which stated that the inclusion of a "race" question was unnecessary. In addition, the Portuguese Constitution sets forth the principle of non-discrimination, according to which no one can receive a privilege, be deprived of a right or exempted from a duty because of his race, descent, language, etc. Because of this principle and the above-mentioned recommendations demographic composition does not include a criterion based on race.

8. As compared with the previous census (1981), there was a decrease in the population, which had previously stood at 9,833,014. The overall fertility rate is falling. In 1981 it was 2.1 and in 1989, 1.5. The birth rate in Portugal was 11.5 per cent in 1989.

9. The average life expectancy of the Portuguese population is 71 years for males and 78 years for females. The mortality rate is 9.3 per cent. The infant mortality rate is 12.1 per cent and the maternal mortality rate is 0.066 per cent. In 1989, the population by age group was as follows: 20.9 per cent for the 0-15 age group and 13.1 per cent for the over-65 age group.

10. Regarding the distribution of the population by region, the North is the most heavily populated, with 3,397,630 persons (of whom 1,762,420 are females), followed by the region of Lisbon and the Tagus Valley with 3,316,987 (of whom 1,713,152 are females). The least populated region is the Azores archipelago with 241,794 inhabitants, 121,212 of whom are females.

11. An additional fact to be noted is that there are approximately 4 million Portuguese migrant workers abroad.

III. MAIN SOCIO-ECONOMIC INDICATORS

12. Housing, which is divided into family dwellings and collective dwellings, numbered 3,015,343 and 6,731 units respectively in 1991.

13. The certified unemployment rate in 1990 was 5.5, less than the rate for in 1989 (6.0). Women are the hardest hit by unemployment. In 1988 they represented 41 per cent of the entire employed population and had an unemployment rate of 60 per cent. In 1990, the jobs most favoured by women were in agriculture (53.6 per cent), the textile industries (67.6 per cent), educational services (75.8 per cent) and health services (69.9 per cent).

14. However, women are playing an increasingly active role in Portuguese society. In 1979, for the first time, a woman was appointed Prime Minister in Portugal, and in 1980 a woman held a post of civil governor. Two women are currently heading civil governments, which number 18 in all. In the last elections for the Assembly of the Republic, which took place in October 1991, 19 of the 230 deputies elected, or 8.3 per cent, were women. A woman has been elected Vice-President of the Portuguese Parliament. In the local elections, held in December 1989, the Portuguese elected 300 men and 5 women as mayors. The last elections for the European Parliament led to the election of 3 women out of total of 24 Portuguese deputies. Women voters represent 52 per cent of the total.

15. A woman has been appointed judge of the Constitutional Court. The current Government has 5 female State Secretaries among its 68 members (justice, planning and regional development, administrative modernization, budget and environment). The secretariats of the political parties have a varying number of women among their members. There is even one party that stipulates that a minimum of 25 per cent of its executive posts shall be held by women. In the trade unions, women participants in the Labour Conference amount to 30 per cent of the total and in the General Labour Union the figure is 46 per cent; The percentage of women in the executive posts of the trade unions is 17 per cent and 24 per cent respectively. Women make up 7 per cent of the police force.

16. Women also hold significant positions in other fields: scientific and liberal professions, 54.2 per cent; directors or senior officials of the administration, 20.5 per cent; administrative secretaries, 52.9 per cent; commerce, 43.9 per cent; and as university-level teachers, 33.7 per cent; secondary-school teachers, 62.7 per cent; and primary-school teachers, approximately 92.2 per cent.

17. In 1988/89, 51.6 per cent of secondary school pupils were girls. In 1989/90, the female enrolment rate for higher education was 52.7 per cent, and for secondary education, 53.7 per cent. In 1985/86, 57.7 per cent of graduates who had obtained a master's degree were girls. A few examples should also be provided of certain professions recently opened to women - the judiciary, the government-procurator service and the diplomatic service: in the judiciary, there are at present 168 female judges out of a total of 1,199

while, out of 782 government procurators, 210 are women, of whom 16 hold high-ranking positions. In 1988/89, of 103 students enrolled at the Centre for Judicial Studies (National College of Magistrates), 47 per cent were women; in the diplomatic service, out of a total of 473 members, 50, or over 10 per cent, are women. It should be noted that there are two female ambassadors.

18. Finally, mention should be made of the situation of women with regard to military service. Under Act No. 30/87, military service is voluntary. A recent act has established that, "No member of the armed forces may be disadvantaged or privileged in his career because of his descent, race, territory of origin, religion, political or ideological convictions, economic situation, social status or sex."

19. Taking 10^9 as the basic unit, the Gross National Product (GNP) was Esc 8,475.6 and the gross per capita product Esc 864.2, or approximately $6,062.2. For the same period, the growth rate was 2.1 per cent and the external debt stood at Esc 1,008.3 (basic unit 10^9). The inflation rate was 11.4 per cent in 1991.

20. The official language of Portugal is Portuguese. However, in the north-eastern region of the country, people still speak a dialect, mirandês, which is derived from popular Latin, although it has been influenced by the Castilian and Leonese spoken in the Iberian peninsula as much as eight centuries ago. It is still spoken by 15,000 persons in that region, especially country people, at work and at home. To protect this rich, orally-transmitted cultural heritage, optional classes are provided by the Ministry of Education in the primary and secondary schools.

21. In the field of education, the literacy rate was 84 per cent in 1990 and the percentage of GNP allocated to education was 4.4 per cent. In 1986/87, the school enrolment rate was 82.7 per cent. In comparison with that period, increases are expected in 1992/93 to 90 per cent for pre-school education (five years), to 100 per cent for primary education (first and second cycles), to 80 per cent at the secondary level (including the third cycle of primary education) and to over 20 per cent in higher education. Access to education has therefore increased, and it is hoped that the rate of illiteracy will be reduced by 5 per cent in 1992.

22. In the area of religion, most Portuguese are Catholic (94.5 per cent), while 5.5 per cent profess other religions. In this connection, however, account should be taken of the fact that, according to the Constitution of the Portuguese Republic (art. 41, para. 3) "No one shall be questioned by any authority about his or her convictions or religious practices, except for the gathering of statistical data that cannot be identified individually, nor shall anyone be prejudiced by his or her refusal to reply."

IV. GENERAL POLITICAL STRUCTURE

23. According to the basic law - the Constitution of the Portuguese Republic - Portugal is a democratic State based on the rule of law, the sovereignty of the people, plurality of both democratic expression and democratic political organization as well as respect for and the safeguarding

of fundamental rights and freedoms. Article 2 of the Constitution also states that the aim of the Portuguese Republic is to achieve economic, social and cultural democracy and to further participatory democracy.

24. The fundamental principles contained in the Constitution reflect the features of the political regime in force in Portugal and lay down the primacy of the law and of democratic legality. According to article 3, paragraph 3, the validity of the laws and other acts of the State, the autonomous regions or local authorities shall depend on their being in accordance with the Constitution.

25. The Portuguese people exercises political power through universal, equal, direct, secret and periodic suffrage; the political parties contribute to the organization and expression of the will of the people (art. 10).

26. The special political and administrative arrangements for the archipelagos of the Azores and Madeira are based on their geographical, economic and social and cultural characteristics and on the aspirations of the peoples of the islands to autonomy. Autonomy is designed to promote democratic participation by the citizens, their economic and social development and the promotion and defence of regional interests, but it in no way affects the sovereignty of the State (art. 227).

27. The autonomous regions enjoy powers laid down in the Constitution, such as the competence to legislate on matters of specific interest to the regions to enact regulations for the implementation of regional legislation and of general laws adopted by the organs of supreme authority and to exercise the executive powers that belong to them (art. 229).

A. General legal framework

Organization of political power

28. According to article 111 of the Constitution, political power lies with the people and is exercised in accordance with the Constitution.

29. The organs of supreme authority are the President of the Republic, the Assembly of the Republic, the Government and the Courts (art. 113). The organs of supreme authority must observe the principles of separation and interdependence as established by the Constitution (art. 114).

30. The Assembly of the Republic is the supreme legislative organ and is competent to enact legislation on all matters with the exception of those that are reserved to the Government by the Constitution, i.e. those relating to the organization and functioning of the Government (art. 201, para. 2). In any event, the Assembly may grant the Government legislative authorization to legislate in matters relating to its own competence as defined in the Constitution, such as the status and capacity of persons, rights, freedoms and safeguards, definition of offences, sanctions and security measures, as well as criminal procedure, and tax creation and the fiscal system (art. 168).

31. The Government issues decree-laws on matters within its competence or matters reserved to the Assembly of the Republic, subject to its authorization. It also issues decree-laws in application of laws laying down legal principles and the fundamental texts of the legal regimes (art. 201).

32. Part I of the Portuguese Constitution is devoted to fundamental rights and duties. It establishes the principles of universality and equality. According to article 18, the constitutional provisions relating to rights, freedoms and safeguards shall be directly applicable and binding on public and private bodies; they can be restricted only in cases provided for in the Constitution (art. 19), and any restrictions shall be of a general and abstract character. Mention should also be made of the constitutional provision contained in article 16, paragraph 2, which states that the provisions of the Constitution and laws relating to fundamental rights shall be read and interpreted in harmony with the Universal Declaration of Human Rights.

33. Article 20 provides for access to law and the courts; according to this provision, everyone has the right to defend his or her legitimate rights and interests through judicial means, and justice shall not be withheld from a person for lack of financial means.

34. Citizens may also present complaints to the Provedor de Justica (Ombudsman) concerning actions or omissions on the part of the public authorities; although the Ombudsman has no power of decision, he may examine the complaints and make such recommendations to the appropriate organs as are necessary in order to prevent or make good injustice. The Ombudsman is an independent person, appointed by the Assembly of the Republic (art. 23).

35. In matters of international law, the Constitution states that the rules and principles of general or ordinary international law shall be an integral part of Portuguese law. Portugal is also bound by the rules provided for in international conventions in force in the internal legal order, and by rules laid down by the competent organs of international organization to which Portugal belongs (art. 8).

36. The courts safeguard the citizens' rights and legally protected interests: they punish violations of the democratic legal order and settle public as well as private conflicts of interest (art. 205); they are independent and subject only to the law (art. 206).

B. The organs of supreme authority

1. The President of the Republic

37. The President of the Republic is elected by direct and secret universal suffrage by the Portuguese citizens who are registered as voters on the national territory (art. 124). He represents the Portuguese Republic and guarantees national independence, the unity of the State and the regular functioning of the democratic institutions (art. 123).

38. The President of the Republic acts as Supreme Commander of the Armed Forces; promulgates and orders publication of laws, decree-laws and decrees

setting forth regulations, and signs the resolutions of the Assembly of the Republic that approve international agreements and other decrees of the Government; submits matters of relevant national interest to a referendum; declares states of siege or emergency; speaks out on all serious emergencies in the life of the Republic; grants pardons and commutes sentences, after having heard the Government; requests the Constitutional Court to examine and rule on the constitutionality or otherwise of legal provisions or violations of the Constitution by way of omission and performs acts concerning the territory of Macao, as laid down in the statute pertaining to that territory (art. 137).

39. The President of the Republic presides over the Council of State; fixes the dates of elections in conformity with the electoral law; convenes extraordinary sessions of the Assembly of the Republic and addresses messages to it; dissolves the Assembly of the Republic in compliance with constitutional provisions; appoints the Prime Minister and dismisses the Government; appoints the members of the Government and relieves them of their posts; presides over the Council of Ministers when the Prime Minister so requests; dissolves the organs of self-government of the autonomous regions, on his own initiative or at the proposal of the Government, after having heard the Assembly of the Republic and the Council of State; appoints and relieves of their posts the President of the Court of Audit and the Attorney-General of the Republic, at the proposal of the Government. He also presides over the Higher Council of National Defence and appoints and relieves of their posts the Chief of the General Staff of the Armed Forces and the Chiefs of Staff of the three services of the Armed Forces (art. 136).

40. With regard to international relations, the President ratifies international treaties once they have been duly approved; declares war in the case of actual or imminent aggression and makes peace, at the proposal of the Government, after hearing the Council of State and having obtained the authorization of the Assembly of the Republic (art. 138).

41. The President of the Republic has the right of promulgation and veto. He must promulgate any decree of the Assembly of the Republic or the Government or exercise his right of veto within the time periods stipulated by the Constitution (art. 139). The Council of State is the political advisory body of the President of the Republic (art. 144). It is presided over by the President of the Republic (art. 145).

2. Assembly of the Republic

42. The Assembly of the Republic is the representative assembly of all Portuguese citizens (art. 151). The Constitution stipulates that deputies shall be elected by constituencies, the geographical limits of which are laid down by the law (art. 152). All Portuguese citizens entitled to vote may stand for election, subject to the restrictions laid down by electoral law (art. 153).

43. Deputies may table proposals for constitutional amendments and bills, put questions to the Government concerning any of the latter's acts or any act of the Public Administration, request and obtain, from the Government or from the organs of any public body, such data, information and publications as they may

consider useful for the fulfilment of their mandates, and request the establishment of parliamentary committees of inquiry (art. 159). The Constitution determines deputies' immunities, rights, privileges and duties, as well as grounds for forfeiture and renunciation of mandates.

44. The Assembly of the Republic is responsible for revising the Constitution in conformity with the rules for constitutional revision. Revision may take place once five years have elapsed after publication of any revision law or at any time by a majority of four-fifths of the deputies entitled to vote (art. 284). However, revisions must respect certain limits, such as national independence and the unity of the State; the republican form of government; the separation of the Churches from the State; the rights, freedoms and safeguards of the citizens and workers; the coexistence of the public, the private and the cooperative and social sectors, with respect to ownership of the means of production; the existence of economic plans; universal, direct, secret and periodic suffrage for the appointment of the members of the organs of supreme authority, the autonomous regions and the organs of local government; plurality of expression and political organization, including the right to a democratic opposition; separation and interdependence of the organs of supreme authority; the scrutiny of legal provisions for unconstitutionality by act or omission; the independence of the courts; the autonomy of local authorities and the autonomy of the archipelagos of the Azores and Madeira (art. 288).

45. The Assembly approves international conventions on matters falling within its competence, treaties involving Portugal's participation in international organizations, treaties of friendship, peace treaties, defence treaties and any other treaties which the Government submits to it (art. 164). It watches over observance of the Constitution and the laws and the acts of the Government and the Administration. It scrutinizes the decree-laws and may refuse ratification. It also examines the accounts of the State and other public bodies (art. 165).

46. As regards its own competence, it legislates inter alia on the election of persons to hold office in the organs of supreme authority; on the referendum regime; the organization, functioning and procedures of the Constitutional Court; the organization of the national defence; states of siege and states of emergency; situations relating to Portuguese citizenship and political parties and associations (art. 167).

3. The Government

47. The Government is the organ that conducts the country's general policy and is the highest organ of public administration (art. 185). It comprises the Prime Minister, the ministers, and the State secretaries and under-secretaries (art. 186). The Government's programme is submitted to the Assembly of the Republic by the Prime Minister (art. 195), who is responsible to the President of the Republic, and in the context of the political responsibility of his Government, to the Assembly (art. 194).

48. The Government is vested with political authority to countersign the acts of the President, negotiate and approve international conventions, submit bills or draft resolutions to the Assembly of the Republic, propose to the President that important matters be put to a referendum and give its opinion on the declaration of a state of siege or emergency (art. 200).

4. Status of public office-holders

49. Article 20 of the Constitution, relating to the status of public office-holders, specifies their political, civil and criminal liability for acts committed in the exercise of their functions. Under article 133, the President of the Republic is answerable to the Supreme Court for crimes and offences committed in the performance of his duties; proceedings are initiated by the Assembly of the Republic and conviction entails both dismissal from office and prohibition of re-election. At the end of his term of office, the President is answerable to the ordinary courts for any crimes and offences not committed in the performance of his duties.

50. Deputies incur no civil, criminal or disciplinary liability for the votes they cast and the opinions they express in the performance of their duties and may not be detained or arrested without the Assembly's consent, except when taken in flagrante delicto for an offence carrying a major penalty (art. 160, paras. 1 and 2). When criminal proceedings are initiated against a deputy and he is formally charged or indicted, the Assembly decides whether his immunity should be lifted to allow the proceedings to continue.

51. When legal proceedings are initiated against a member of the Government (art. 199) and he is formally charged, the Assembly of the Republic decides, except in the case of serious crimes, whether or not he should be suspended from his duties to allow the proceedings to continue.

5. The courts

52. The courts are the organs of supreme authority empowered to administer justice (art. 205). They are independent and subject only to the law. Their decisions are binding on all public and private bodies and take precedence over the decisions of any other authority (art. 208).

53. The special requirements of certain fields of substantive law, which are detailed and complex, has led to the establishment of several categories of specialized courts with jurisdiction over particular fields.

54. The Constitutional Court, the courts of justice, the Court of Audit and the military courts are the categories of court established by the Constitution. The Constitution has also permitted the establishment of administrative and fiscal courts, maritime courts and arbitration tribunals. The Constitution prohibits courts with exclusive jurisdiction over certain categories of crime (art. 211).

55. The military courts have jurisdiction to try essentially military offences. In conformity with the Constitution, they are no longer answerable to the military authorities in terms of jurisdiction over persons; their jurisdiction is defined ratione materiae on the basis of certain categories

of offences. If there is good cause, the law may give these courts jurisdiction over certain deliberate offences, that may be considered to amount to essentially military offences. However, it should be emphasized that, under article 167 (i) of the Constitution, responsibility for developing legislation in this regard is the exclusive responsibility of the Assembly of the Republic.

56. The courts of justice have jurisdiction over all matters not assigned to other courts and are, as a general rule, competent to decide matters of a civil, social and criminal nature.

57. There are courts of first instance, courts of second instance and the Supreme Court of Justice, which is the highest judicial organ with jurisdiction throughout the national territory (art. 202). This hierarchy of courts is designed to permit appeals to a higher court against decisions by a lower one.

58. The civil courts are responsible for deciding cases not assigned to other courts (Act 38/87, art. 14); the criminal courts are responsible for committal for trial, for trials and for subsequent provisions in criminal cases; the criminal investigation courts are responsible for the pre-trial proceedings, the adversary stage of examination proceedings, the exercise of jurisdiction in connection with the preliminary investigation and procedural matters in connection with protective measures.

59. The domestic courts are responsible for preparing and hearing cases concerning matrimonial relations and civil jurisdiction over minors; the labour courts exercise jurisdiction over social matters, either in the civil sphere or over infringements of labour legislation; courts for the supervision of sentences exercise overall jurisdiction in relation to the modification or replacement of penalties and protective measures being applied and are responsible for accompanying detainees.

60. The Juvenile Court is competent to decide on measures concerning minors aged between 12 and 16 in the following circumstances:

(a) If they have serious difficulties in adjusting to normal social life as a result of their circumstances, conduct or behaviour;

(b) If they are engaged in begging, vagrancy, prostitution, debauchery, abuse of alcohol or unlawful use of narcotics; and

(c) If they have committed acts described by the law as crimes, offences or misdemeanours.

The Juvenile Court's purpose is to provide judicial protection for minors and to defend their rights and interests by applying supervisory measures for their protection, assistance and education (Decree-Law 314/78, art. 2).

61. The Constitutional Court decides legal matters of a constitutional nature which may be raised before any court. It is made up of 13 judges, 10 of whom are elected by the Assembly of the Republic and 3 co-opted by the elected judges. They enjoy the same safeguards as all judges, i.e. independence,

irremovability, impartiality and immunity. The Court rules on conformity with the Constitution and the law. Its decisions regarding unconstitutionality or violation of the constitutional standards and principles may be preventive or exercised a posteriori.

62. The Constitutional Court has competence in electoral matters and passes judgement in last instance on the regularity and validity of acts of the electoral procedure, records the death of the President and rules on the incapacity to exercise the presidential functions of any candidate for the presidency. It monitors the legality of the constitutions of political parties and of their alliances, rules whether their names, acronyms and symbols are legal and decides in advance whether referendums and direct consultations of the electorate at the local level are constitutional and in conformity with the law (art. 225).

63. The separation between the judiciary and the Attorney-General's Department ensures that proper judicial proceedings are applied with the safeguards required by the democratic process. Judges cannot be held liable for their decisions except as provided for by law (art. 221). The statutes of the judiciary, adopted by Act No. 21/85 of 30 July 1985, stipulates the requirements for appointment as a judge:

(a) Portuguese citizenship;

(b) Full exercise of political and civil rights;

(c) Possession of a bachelor's degree or equivalent in law, obtained or validated in Portugal; and

(d) Successful completion of the training courses at the Centre for Judicial Studies (National College of Magistrates).

They may not hold any other office, whether public or private, except non-remunerated teaching or scientific research in the sphere of law, or administrative functions within the professional organizations of the judiciary (art. 13). Moreover, they may engage in public party-political activities (art. 11).

64. The Higher Council of the Bench, which is the judiciary's supreme managerial and disciplinary organ, has, inter alia, the following functions pursuant to article 149 of the Act:

(a) To appoint, assign, transfer, promote and discharge judges, assess their professional performance and take disciplinary action;

(b) To give its views on the organization of the judiciary, the status of judges and, in general, on matters relating to the administration of justice; and

(c) To study and submit to the Minister of Justice legislative measures designed to increase the effectiveness of and otherwise improve the prisons.

65. Act No. 47/86 of 15 October 1986, recently amended by Act No. 23/92 of 20 August 1992, approved the organizational statutes of the Attorney-General's Department, the organ that represents the State, undertakes criminal proceedings and defends the democratic legal order and the interests determined by law (art. 224). The head of the Attorney-General's Department is the Attorney-General, whose functions are the following:

(a) To promote and defend the democratic legal order;

(b) To direct, coordinate and control the activities of his Department and to issue directives, orders and instructions to the procurators and agents of the Department regarding the exercise of their duties;

(d) To advise on matters concerning which the law requires him to be consulted or at the request of the Government; his views stand as an official interpretation if they are approved by the member of the Government who requested them; he also submits to the Minister of Justice legislation designed to ensure the efficiency of his own Department and to improve judicial institutions;

(e) To draw the attention of the Government to obscurities or contradictions in legal texts; and

(f) To monitor procedural acts by the criminal police.

66. The Attorney-General's Department acts in parallel with the judiciary and is independent of it (Act No. 47/86, art. 54). The rules on incompatibility, duties and rights are the same with regard, for example, to public or private functions or party-political activities as those for the judiciary (Act No. 47/86, art. 60 et seq.). Requirements for entry to the Attorney-General's Department are identical to those for the judiciary.

V. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

67. In its international relations, Portugal observes the principles of national independence, respect for human rights, the right of peoples to self-determination and independence, equality among States, the peaceful settlement of international disputes, non-interference in the internal affairs of other States and cooperation with all other peoples on behalf of the emancipation and progress of mankind (Constitution, art. 7).

68. In Portugal, human rights are protected by constitutional standards and by ordinary legislation. Portugal's Constitution is marked by concern to protect human rights and systematically upholds the principle of complete equality before the law and non-discrimination. It is thus hardly surprising that its fundamental principles include the following:

"The Portuguese Republic is a democratic State based on ... the sovereignty of the people ... on respect for and the safeguarding of fundamental rights and freedoms ..." (art. 2);

"In its international relations, Portugal shall be governed by the principles of ... respect for human rights ..." (art. 7, para. 1);

"The basic tasks of the State shall be:

...

(b) To safeguard fundamental rights and freedoms and respect for the principles of the democratic State ..." (art. 9).

69. The section on fundamental rights and duties states that:

"All citizens shall enjoy the rights and be subject to the duties laid down in the Constitution." (art. 12, para. 1).

In its turn, article 13 provides that:

"1. All citizens shall have the same social dignity and shall be equal before the law.

2. No one shall be privileged, favoured, injured, deprived of any right or exempted from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation or social condition."

70. This principle of equality also applies to aliens and stateless persons. Article 15 of the Constitution provides that:

"1. Aliens and stateless persons staying or residing in Portugal shall enjoy the same rights and be subject to the same duties as Portuguese citizens.

2. The foregoing paragraph shall not apply to political rights, to the performance of public duties that are not predominantly technical or to rights and duties restricted to Portuguese citizens under the Constitution and by law."

71. The provisions of the Constitution and of law are interpreted and implemented in harmony with the Universal Declaration of Human Rights (art. 16) and thus any legislation that contravenes the Declaration is prohibited. The validity of the laws and other acts of the State depends on their being in accordance with the Constitution (art. 3, para. 3) and anyone guilty of a violation of these fundamental principles is answerable in accordance with the legal regime for the protection of fundamental rights: application to the courts, liability of violators, etc.

72. Most Portuguese legal literature holds that article 8 of the Constitution has established a system whereby international law is fully incorporated into domestic law. Article 8 reads:

"1. The rules and principles of general or ordinary international law shall be an integral part of Portuguese law.

2. Rules provided for in duly ratified or approved international conventions shall, following their official publication, apply in domestic law as long as they remain internationally binding with respect to the Portuguese State;

3. Rules laid down by the competent organs of international organizations to which Portugal belongs, shall apply directly in domestic law, in so far as this is expressly provided for in the relevant constitutive treaties.

Most legal literature considers that the status of treaty law, which is that of ordinary international law, is below the Constitution but above ordinary legislation. Accordingly, once ratified by Portugal and published in the official journal (Diário da República) international treaties and agreements, and thus the rights established by them, apply directly and are directly binding on all public or private bodies (Constitution art. 18).

73. This means that, in the event that a violation of one of these principles is established involving, for instance, discrimination - which is prohibited by several provisions of the Constitution and of Portuguese legislation, in particular article 13 of the Constitution - the victim would be entitled to apply to a court to vindicate his rights; he may not be denied justice for lack of means (Constitution, art. 20). If someone's economic situation prevents him from paying the legal costs, the Legal Aid Institute will secure him a locus standi without it being necessary for him to pay expenses or lawyers' fees in advance.

A. Legal protection

74. Citizens are entitled to legal protection, and access to the courts to defend their rights, without any form of economic impediment, is guaranteed. The courts are required to ensure defence of the legally protected rights and interests of citizens, to punish violations of the democratic legal order and to settle conflicts of interest.

75. Access to the courts is guaranteed by the Constitution (art. 20). This right is protected even during a state of siege or of emergency as far as the defence of the rights, liberties and guarantees undermined or jeopardized by an unconstitutional or unlawful measure is concerned (Act No. 44/86 of 30 September 1986, art. 6). The prime objective of Decree-Law No. 387-B/87 of 29 December 1987, supplemented by Decree-Law No. 391/88, of 26 October 1988, is to ensure the effectiveness and practical implementation of the right of access to justice. There are two aspects to this right: legal information and legal protection.

Legal information

76. Information regarding the law is of prime importance as it forges a link between the citizen and the system of justice. In this context, the law makes provision for measures to disseminate knowledge of the law and of the Portuguese legal order, by publications and by supplying specially prepared

information material. In addition, mention should be made of the intention gradually to establish technical support offices within the courts and other legal services and departments.

77. A number of cultural measures have also been undertaken with schools and local authorities. The programmes aim to inform citizens not only of the general legal framework, and of their rights and duties, but also of the legal means available to them in case of need.

Legal protection properly so-called

78. The second aspect is that of the legal protection accorded to individuals. It comprises legal advice and legal aid. Legal protection, which is the joint responsibility of the State and of the institutions representing the legal professions, is granted to individuals who lack the means to pay the expenses and costs generally involved in legal proceedings. The law establishes the requirements for legal aid. In certain circumstances, persons are presumed to lack sufficient means, such as, for instance, if they are receiving alimony or income-support grants. However, legal protection extends only to those with a legitimate interest in a case or who have suffered, or are threatened with, a violation of a legally protected right.

79. Legal advice is provided through cooperation between the Ministry of Justice and the Bar, and several legal-advice offices have already been set up. The advice includes certain extrajudicial measures and informal conciliation between the parties. Legal aid is free. It exempts beneficiaries from lodging a security or deposit to guarantee payment of the proceedings and from costs and expenses, including the remuneration of qualified legal counsel, who are paid by the State in accordance with the rules established for the purpose. Such exemption, which applies to all courts whatever the form of procedure, must be expressly requested. Moreover, it should be emphasized that it is granted regardless of the applicant's status in the proceedings and of whether it has already been granted to his adversary.

80. The courts, which are the organs of supreme authority under the Constitution that have the powers to administer justice in the name of the people (Constitution, art. 205), "safeguard the citizens' rights and legally protected interests, punish violations of the democratic order and settle public and private conflicts of interests" (art. 206). Under article 207 of the Constitution they may not "apply unconstitutional provisions or principles to matters brought before them". The Constitutional Court rules on the issue of unconstitutionality (art. 213). It may exercise this control function preventively, in the case of acts, treaties or agreements submitted to the President of the Republic for promulgation or approval (Constitution, art. 278), in abstracto with regard to any provision of the law (art. 281) and in concreto with regard to decisions by the courts, if they refuse to apply a provision on the grounds of its unconstitutionality or if they apply a provision the constitutionality of which has been questioned during the proceedings (art. 280). Paragraph 2 of this article specifies that if the provision, the application of which has been rejected, forms part of an international convention, it is mandatory for the Attorney-General's Department to appeal against the decision to the Constitutional Court.

81. In addition, the Constitution authorizes/makes it mandatory for the Provedor de Justica (Ombudsman) to apply to the Constitutional Court for a declaration of unconstitutionality regarding any provisions he considers contrary to the Constitution. Lastly, mention should be made of the right of petition and popular initiative, contained in article 52 of the Constitution, which authorizes citizens to submit claims or complaints in defence of their rights, the laws or the general interest.

82. In the international sphere, as a result of the ratification of a number of international conventions, citizens who believe that the rights to which they are entitled under the conventions have been violated may appeal to the monitoring bodies established by the conventions, in accordance with the relevant procedure. This is particularly the case as regards the European Commission of Human Rights and of the European Court of Human Rights, which were established within the Council of Europe, by the European Convention on Human Rights, and the United Nations Human Rights Committee, whose role was established by the Optional Protocol to the International Covenant on Civil and Political Rights.

83. The Portuguese legal system addresses the matter of redress for citizens whose fundamental rights have been violated, a concern that is even reflected in the Constitution, article 29, paragraph 6 of which provides that "citizens who have been unjustly convicted shall have the right, in the conditions to be determined by law, to have their sentences reviewed and to be compensated for any injury suffered." In addition, Act No. 44/86, article 2, paragraph 3, of 30 September 1986, which supplements the constitutional provisions regarding states of emergency, provides that compensation shall be awarded to citizens whose rights, freedoms and guarantees have been violated as a result of the declaration of a state of siege or a state of emergency, or by an unconstitutional or unlawful measure adopted in the course of implementation of such a declaration, particularly because of unlawful or unjustified deprivation of liberty.

84. On the other hand, article 22 of the Constitution sets out the terms of the liability of public bodies as follows:

> "The State and other public bodies shall be jointly and severally liable under civil law with the members of their organs, their officials or their agents for acts or omissions in the exercise of their functions, or caused by such exercise, which result in violations of the rights, freedoms or safeguards of or damage to other parties."

85. This constitutional provision was followed by Decree-Law 48051, of 30 November 1967, which addresses the matter of the State's extra-contractual liability for acts of public administration and provides:

> "The State and other public legal persons shall bear civil liability towards third parties for violations of their rights and of the legal provisions intended to protect their interests, if the injury is the result of wilful unlawful acts committed by their agencies or officials in the performance of their duties."

Act 64/91 of 13 August 1991 authorized the Government to legislate on the granting of provisional compensation to the victims of crimes, in general, until the court has issued its final verdict.

86. The Portuguese State also guarantees compensation for victims of violence. Decree-Law 423/91 of 30 October 1991 provides that anyone who has been a victim of a deliberate act of violence on Portuguese territory may apply to the State for compensation for the damage suffered, without prejudice to any compensation awarded in the course of criminal proceedings. Such compensation may also be awarded to anyone who assisted the victim or who cooperated with the authorities in preventing the offence or detaining its perpetrator.

87. This principle applies to the protection of women who suffer violence. Act 61/91 of 13 August 1991 guarantees protection for women who suffer violence and introduces a number of preventive and punitive mechanisms including the possibility of payment in advance by the State of the compensation that will be granted as a result of the proceedings initiated.

88. As regard victims' support, it is worth mentioning the establishment of the Portuguese Victims' Support Association, established on 20 June 1990 for the purpose of furthering and assisting the information and protection of and support for the victims of criminal offences. Its aims include, in particular:

(a) Furthering protection and support for the victims of crimes through, inter alia, information, personal interviews and moral, social, legal, psychological and financial support;

(b) Cooperating with the competent judicial bodies, the police, the social security system, the health authorities and any other public or private agency to defend and secure effectively the rights and interests of victims of crime and their families;

(c) Encouraging and promoting social solidarity, particularly through the training and management of a network of voluntary workers and sponsorship of social work, as well as through mediation between victims and offenders;

(d) Fostering research into and studies of victims' problems;

(e) Promoting and participating in programmes and activities to provide information and training and to develop public awareness;

(f) Sponsoring the adoption of legislative, regulatory and administrative measures likely to assist in protecting against the risks of victimization and mitigating its consequences; and

(g) Establishing contacts with international organizations and cooperating with organizations pursuing similar aims in other countries.

B. The role of the public administration

89. The Constitution states that:

"1. The public administration shall seek to promote the public interest, while observing the legally-protected rights and interests of citizens.

2. Administrative organs and agents shall be subject to the Constitution and the law and shall exercise their functions ... with fairness and impartiality."

90. State officials and agents incur civil, criminal and disciplinary liability for their acts and omissions that violate the rights and interests safeguarded by the law (Constitution, art. 271). The disciplinary statute (Decree-Law 24/84 of 16 January 1984) lays down the penalty of suspension for any official or agent who fails to respect the requirement to show impartiality in the exercise of his duties and compulsory retirement or dismissal for any official or agent guilty of acts that are manifestly harmful to the institutions and principles enshrined in the Constitution.

91. According to article 268 of the Constitution:

"1. Citizens shall be entitled to be informed by public administrative authorities, whenever they so require, of the progress of proceedings in which they are directly concerned and to have knowledge of final decisions taken in their regard.

2. Administrative acts that affect the public shall be notified to the interested parties if they are not officially published. They shall be duly substantiated whenever they affect the legally protected rights or interests of citizens.

3. Any interested party shall be entitled to appeal to the courts against any final and enforceable administrative act that is vitiated by illegality, regardless of its form, and to obtain recognition of a legally protected right or interest."

Accordingly, this article makes provision for the right to information on the manner in which cases of concern to citizens are handled and on decisions concerning them; the right to be informed of decisions, either by notification or official publication, and of the grounds for decisions if they affect legally protected rights or interests; and the right to appeal to the courts against an illegal administrative act or to gain recognition of a legally protected right or interest.

92. In this spirit, resolution 6/87, published on 29 January 1987, approved a set of regulations concerning the reception of the public and written administrative communications, of an external character, to be adopted by the civil service. In this way, an attempt is being made to personalize the public administration and to humanize its relations with its users and with the citizens in general. The civil servants employed in these reception services must be properly identified and be fully conversant with the

structure and attributions of the department in question, in order to be in a position to provide information and direct the persons concerned to the appropriate section. These reception services should ensure the distribution of information brochures on the matters dealt with by the department and the procedures to be followed by private individuals in respect of the proceedings concerning them. At the request of the latter, the services should even be able to give them information about the follow-up action taken in their affairs. In the case of complex questions, the reception services will be able to call upon civil servants who are especially responsible for assisting the persons concerned in drawing up petitions and applications or in completing forms.

93. Written administrative communications should give the name, address and telephone of the office concerned, identifying the civil servants, agents or officials in charge of the bodies which sign them, complete with their titles. Communications addressed to private persons should be drafted in clear concise and objective language, and avoid the use of technical jargon. If a reference is made to regulations or administration circulars, the part which is important for follow-up action on the case or its resolution should, where possible, be transcribed or a photocopy attached. If someone has to be invited to an interview, he should be informed of its purpose, and be guaranteed priority attention when he keeps the appointment.

94. A new Code of Administrative Procedure has recently come into force in Portugal. This Code, adopted by Decree-Law No. 442/91 of 15 November 1991, strengthens the rights of the citizen vis-à-vis the public administration, setting as its objective the maintenance of administrative transparency and respect for the legitimate rights and interests of the citizens. By virtue of this law, the citizens and the agencies and civil servants of the administration have at their disposal a legislative instrument, drafted in clear and comprehensible language which gives them the information they need to adopt the proper procedure, defend their rights and carry out their duties.

95. The Code establishes the general principles to which the work of the administration is subjected. These are the principles of legality (art. 3), the pursuit of the public interest and the protection of the rights and interests of the citizen (art. 4), equality and proportionality (art. 5), justice and impartiality (art. 6), cooperation between the administration and private persons (art. 7), participation (art. 8), decisiveness (art. 9), elimination of red tape and the use of effective procedures (art. 10), provision of services free-of-charge (art. 11) and access to justice (art. 12).

96. Under article 3 of the Code, the organs of the public administration must act in accordance with the law, within the limits of the powers granted to them and in conformity with the goals to be achieved. Article 4 provides that it is the duty of the organs of the administration to pursue the public interest, while respecting the legally protected rights and interests of the citizens. Article 5, which establishes the principles of equality and proportionality, provides that the administration, in its dealings with private persons, must respect the principle of equality, and may not privilege, favour, injure, deprive of any right or exempt from any duty anyone because of his ancestry, sex, race, language, territory of origin, religion,

political or ideological convictions, education, economic situation or social condition. It should be noted, moreover, that all decisions taken by the administration are bound to maintain the balance between public and private interests and must not entail unnecessary sacrifices on the part of the persons they affect. According to article 6, in the performance of its duties, the administration shall treat all persons who have dealings with it in a fair and impartial manner.

97. The Code, in providing that the administrative organs shall act in close cooperation with private persons and in guaranteeing the participation of the latter in the work of the civil service, establishes the right to information. Private individuals are, in fact entitled to be informed of the progress made in the proceedings concerning them and to know the final decisions taken thereon (art. 61). Any information requested shall be provided within a period of 10 days (art. 61, para. 3). The citizens concerned may consult the proceedings and ask for extracts or certified copies (art. 62). Article 65 establishes the principle of open administration which guarantees that citizens have right of access to archives and registers, without prejudice to the legal provisions concerning internal and external security, criminal investigation and the protection of privacy.

98. Article 124 of the recently adopted Code of Administrative Procedure provides that justification must be given for a decision, in a brief statement setting forth the de facto and de jure basis of the decision concerning any administrative act which:

(a) Denies, extinguishes, restricts or in any way whatever impairs rights or imposes or increases obligations, burdens or penalties;

(b) Rules on a claim or an appeal;

(c) Gives a judgement contrary to a claim or objection lodged by the person concerned or to a formal opinion, an information or an official proposal;

(d) Gives a judgement that is different from the usual practice followed in the settlement of similar cases, or in the interpretation or application of the same legal principles or provisions; or

(e) Entails the revocation, modification or suspension of a previous administrative act.

The justification shall be explicit and the absence of a justification shall be established if the statement of the basis of the decision proves to be obscure, contradictory or inadequate.

99. Article 8 of the Code of Administrative Procedure provides that it is the duty of the administration to ensure the participation of private persons and associations, who are defending their interests, in the adoption of decisions concerning them. Under article 9, the administration must also rule on all the subjects within its competence that are submitted to it by private persons, namely, on areas of interest to them and on all petitions, claims or complaints lodged in defence of the Constitution, the laws and the general

interest. Article 10 provides that the administration must ensure that its decisions are taken promptly, economically and efficiently, bearing always in mind that the purpose of the civil service is to assist people with a minimum of red tape. Article 11 establishes the principle that administrative proceedings shall be free of charge. Article 12 guarantees the access to the administrative courts of private persons who request review of administrative acts and the preservation of their legally protected rights and interests.

C. NATIONAL INSTITUTIONS AND ORGANS RESPONSIBLE FOR ENSURING RESPECT FOR HUMAN RIGHTS

100. Under article 52 of the Constitution, all citizens may, individually or collectively, submit to the organs of supreme authority or to any other authority, petitions, representations, claims or complaints for the purpose of defending their rights, the Constitution, the law or the general interest. To that end, a number of offices and departments have been set up with the responsibility, within the limits of their competence, of promoting, protecting and publicizing human rights. These agencies are: (a) the Office of the Provedor de Justiça (Ombudsman), (b) the Women's Equality and Rights Commission, (c) the Attorney-General's Department, (d) the Bureau for Documentation and Comparative Law, and (e) the Commission on the Promotion of Human Rights and the Prevention of Educational Inequalities.

1. Office of the Provedor de Justiça (Ombudsman)

101. The Office of the Provedor de Justiça (Ombudsman), created by a Decree-Law of 1975, was taken up by article 23 of the Constitution. It is an independent organ dedicated to the defence of the legitimate rights and interests of citizens, through informal methods which ensure the legality and justice of the administration. Through this work of protecting human rights, the intervention of the Ombudsman is naturally reflected in the application of the rights recognized by the international instruments, which are themselves reflected in the text of the Constitution.

102. According to the Ombudsman's statutes, citizens may submit to him, orally or in writing, complaints about actions on omissions of the public authorities. The Ombudsman investigates them and makes the recommendations to the competent bodies necessary to prevent or redress injustices. In addition, the Ombudsman must:

(a) Recommend ways in which to correct the illegal or unjust acts or to improve the services of the administration;

(b) Draw attention to any flaws in legislation and request an evaluation of the legality or unconstitutionality of any provision whatsoever;

(c) Give opinions on all questions which are put to him by the Assembly of the Republic; and

(d) Ensure the dissemination of information on the fundamental rights and freedoms, their content and value and on the objectives of his activities.

In this specific area, public information programmes frequently appear in the press, or are broadcast on radio and television, and a regular programme entitled "The Voice of the Ombudsman" has been established on the national radio. This programme has made a decisive contribution to publicizing the work of this important organ, especially among the older members of the population where the illiteracy rate is still high.

103. In carrying out his duties, the Ombudsman may:

(a) Make visits of inspection to any sector of the administration, examine documents, hear the organs and agents of the administration or request any information which he considers necessary;

(b) Conduct any inquiries which he considers appropriate, using any procedure in order to discover the truth, within the limits of the legitimate rights and interests of the citizens in this area. One such instance was the inquiry into acts of torture committed by some police officers and prison officers, which attracted wide media and public attention, and led to the adoption of various measures by the public authorities; and

(c) Seek, in cooperation with the competent organs and departments, the most appropriate solutions to the defence of the legitimate interests of citizens and the best means of improving administrative services.

104. The Ombudsman may order the publication of communiqués or information bulletins on his findings, where necessary making use of the mass media. Furthermore, he submits an annual report on his activities to the Assembly of the Republic, which is published in the official journal of that organ of supreme authority. The report includes statistical data on the number and nature of the complaints lodged, the allegations of unconstitutionality submitted and any recommendations he has made. For example, in his 1990 report, the Ombudsman recommended 19 legislative and 51 administrative measures while 6 allegations of unconstitutionality were referred to the Constitutional Court. The Ombudsman submitted a special report to the Assembly of the Republic. In 1990, through his intervention, favourable results for the parties involved were obtained in 370 cases (11.9 per cent of the total).

105. As the Ombudsman often recognizes in his reports, the average citizen, even if he has no legal training or qualification, often applies to the Office recognizing that it has a real capacity to intervene and revealing that he is aware of his rights and requires the Government and the civil service to carry out their duties.

2. Women's Equality and Rights Commission

106. Questions of equality are recognized today as being fundamental human rights issues, that are basic to the building of democracy. They thus reflect the dynamic way in which this Commission should operate, not only by exposing cases of discrimination against women, but also by taking action to promote genuine equality of opportunity. The Commission is an organ whose task is to

study and analyse the current situation regarding the equality of rights and opportunities and to intervene in all areas, especially as far as the status of women and the principle of equality are concerned.

107. The fundamental and permanent goals of the Commission are as follows:

(a) To contribute to the enjoyment by women and men of equal opportunities, rights and dignity;

(b) To achieve the effective co-responsibility of women and men at all the levels of family, professional, social, cultural, economic and political life; and

(c) To contribute to the recognition by society of the fact that motherhood and fatherhood are social functions and to the assumption of the responsibilities which derive from that fact.

108. In order to attain these goals, the Commission is working basically in the following areas:

(a) Multidisciplinary research into the status of women and the adoption of measures to achieve equality of rights and opportunities;

(b) Informing the public and making it aware of women's rights and of the values of equality;

(c) Providing documentation and bibliographical support for the activities promoted by the Commission; and

(d) Legal matters, in particular by providing consultation and information services for women.

109. It is the duty of the Commission to:

(a) Take part in the formulation of overall and sectoral policy having an impact on the status of women and on the equality of rights of women and men;

(b) Contribute to any legislative amendments which are considered necessary in the various areas, by proposing measures, giving advice on draft legislation and by furthering the creation of the machinery needed for the effective fulfilment of the laws;

(c) Promote action which will result in greater participation by women in development and in political and social life;

(d) Promote action to sensitize women, and society as a whole, to the discrimination to which women are still subjected, so that they can take direct steps to improve their status and to ensure that society will undertake to pursue the same objective;

(e) Conduct and stimulate interdisciplinary research into questions concerning the equality and the status of women, particularly by making the competent bodies aware of the need for a statistical breakdown of information on the status of women in the areas of their activities and to encourage the dissemination of the results of such research.

(f) Inform and sensitize public opinion through the mass media;

(g) Adopt positions on questions which affect the equality of rights and opportunities, the status of women, and the reconciliation of the family and professional responsibilities;

(h) Improve the access of women to the law through a legal information service for women; and

(i) Cooperate with international organizations and foreign agencies which pursue goals similar to those of the Commission.

3. The Attorney-General's Department

110. In the area of the protection of the citizens, account should also be taken of the statutes of the Attorney-General's Department (Act No. 47/86 of 15 October 1986, and Act No. 23/92 of 20 August 1992 amending it). The fundamental duties of the Office of the Attorney-General's Department are:

(a) To represent the State, legally incapable persons and missing persons;

(b) To represent workers and their families ex officio in the protection of their social rights. One of the most important areas of intervention of the Attorney-General's Department is that of minors, either in respect of the proceedings brought before the domestic courts in such cases as adoption, parental responsibility, alimony or in respect of the Juvenile Court and the application of protection, assistance or education measures. If the security, health, moral upbringing and education of the minor are not in jeopardy the Court may still decide to apply measures which it considers adequate, specifically the placement of the child in a family or in an education or welfare establishment. The Attorney-General's Department will intervene even in these cases, by instituting legal proceedings or by using other legal means to defend the rights and interests of the minors;

(c) To institute criminal proceedings;

(d) To promote and coordinate the actions for the prevention of crime; and

(e) To defend democratic legality.

111. The Attorney-General's Department must also ensure full compliance with the law, not only by State organs but also by the citizens in general. Its action may be either preventive or concerned with violations of the law. In the first case, the Advisory Council of the Attorney-General's office, and its representatives in the ministries, gives legal opinions on bills, on the

compatibility of international conventions or agreements with Portuguese legislation, and on the existence of any flaws, contradictions or obscure passages in legal texts. In the second case, the Attorney-General's Department ensures that the jurisdictional function is being exercised in conformity with the Constitution and the law, monitor the work of the judicial officers and lodges appeals against any court decisions taken in express violation of the law.

112. The Attorney-General's Department is obliged to refer to the Constitutional Court any cases in which the courts have refused to apply a provision whose constitutionality has been questioned and which appears in an international convention. An appeal must also be lodged against any court decision which applies a provision that has previously been ruled unconstitutional or illegal by the Constitutional Court (art. 280 of the Constitution).

4. The Bureau for Documentation and Comparative Law

113. This Bureau was established in the Ministry of Justice, under the direct control of the Attorney-General of the Republic (Decree-Law 388/80 of 22 September 1980). Its purpose is to ensure the access of members of the Portuguese legal professions to foreign, international and community law and it has been given the responsibility of establishing a documentation centre on human rights and international, foreign and community law, and of publishing a legal journal. This publication includes, inter alia, a section reporting on the activities of international organizations, particularly the United Nations and the Council of Europe, and another section dealing specifically with human rights. This last section has made it possible to include texts, in Portuguese, on the application of the European Convention on Human Rights, the Inter-American Convention on Human Rights and various United Nations instruments such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Convention on the Rights of the Child. It also publishes the reports submitted by Portugal to the various United Nations treaty bodies, such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, together with the summary records of the discussions thereon.

114. In order to promote the dissemination of information on human rights, several information sessions have been held by the Bureau in various parts of the country. These sessions are intended in particular for the members of the Portuguese legal professions: judges, procurators, lawyers, law lecturers and law students. As part of its work of disseminating information on human rights, the Bureau is setting up databases dealing directly with this subject, for example, a legal bibliographic database on human rights.

5. The Commission on the Promotion of Human Rights and the Prevention of Educational Inequalities

115. At the end of 1988, the Portuguese Government, recognizing the importance of human rights education, established a Commission on the Promotion of Human Rights and the Prevention of Educational Inequalities. This Commission has the express responsibility of examining the multi-disciplinary nature of this approach and proposing measures to be adopted to promote the study of human

rights and increase the awareness of teachers and pupils (Order No. 195/ME/88, of 12 December 1988). This is an inter-ministerial commission, on which the Ministries of Education and Justice are represented, which proposes and organizes activities to give training in and information on and increase the awareness of human rights. Several meetings have been held, various brochures published, for example on the rights of the child or on the fundamental historical human rights instruments, and there is active participation in the planning of school curricula and in the training programmes of the departments of the Ministry of Justice (administration, prisons, police, judges and procurators).

VI. INFORMATION AND PUBLICITY

116. While the importance of a legal system for the protection of fundamental rights must be recognized, firm, increasing and active support must also be given to sensitization and information activities. The fact that a right has been provided for or a penalty prescribed does not mean that violations will automatically cease. Recognition of this fact has led Portugal to develop more and more training programmes for judges, procurators, the police and prison warders, and to ensure that human rights are given a greater place in the curricula at the various levels of education. On the other hand, the mass media are also playing a fundamental role in this activity by publicizing the most important measures adopted for the application of rights, freedoms and guarantees and by educating and sensitizing the public to values such as tolerance, pluralism and the coexistence of different currents of opinion and thought.

A. Measures to promote awareness of human rights among the public in general and professional groups in particular

117. Several measures have been adopted to make the Portuguese people more aware of human rights and of the legal instruments concerning them, especially the international conventions currently in force, and to disseminate the texts of these instruments. This is being done in a number of areas such as information, education and training.

1. Information

118. In the area of information, many kinds of activities are being carried out. On the one hand, symposia, seminars or information sessions are held and, on the other, there is a systematic dissemination of information concerning human rights. Since Portugal joined the community of democratic nations, particular attention has been paid to the activities of informing and sensitizing the public. These have focused on the national situation, for example, on such matters as the role of women in society or on the importance of a particular piece of legislation - as occurred in the case of the reform of the civil code and of the penal legislation - but also on international law and on the international organizations and their activities. It is of interest to note in this connection that, on the fortieth anniversary of the Universal Declaration of Human Rights, several information sessions were held by the Assembly of the Republic, by the Bar - organized in cooperation with the Ministry of Justice and attended by the President of the Republic - and by the Portuguese Association of Democratic Lawyers. The interest aroused was

not unconnected with article 16 of the Constitution which specifies that the provisions of the Constitution and laws relating to human rights shall be interpreted in harmony with the Universal Declaration of Human Rights.

119. In January 1988, the Ministry of Foreign Affairs organized a symposium on the United Nations Commission on Human Rights. The fact that this was precisely the year in which Portugal began its period of membership of that body heightened the interest of the participants and the media. In May 1988, in cooperation with the advisory services of the United Nations Centre for Human Rights, a meeting was held to discuss the work of the various United Nations human rights treaty bodies. Intended for participants from all the Portuguese-speaking countries, it provided training for government officials dealing with the preparation of human rights reports.

120. In September 1988, the National College of Magistrates and the United Nations Children's Fund (UNICEF), organized a seminar on the Convention on the Rights of the Child. This seminar, which was also attended by representatives of the Portuguese-speaking countries, undoubtedly made it possible to examine the impact of this new legal instrument. In April 1991, another seminar was held for participants from all the Portuguese-speaking countries. It, too, was organized under the programme of advisory services of the Centre for Human Rights and offered the opportunity for an in-depth study of the United Nations human rights system, the mechanism for the submission of reports under the various conventions, the regional systems and the rights of the child.

2. Education

121. At the various levels of official education, in the study of history, philosophy, political science, sociology or the Portuguese language, a place is given to human rights problems. In that spirit, some schools have even held exhibitions, debates and meetings in which pupils, teachers and the local community played a very active part. At the university level, the fuller knowledge acquired has made it possible to ensure that the systems of international protection of human rights have been studied. Teachers training is also of considerable importance. Consequently, there has been increasing participation in the courses offered at the International Institute of Human Rights in Strasbourg, as well as those held by the World Association for the School as an Instrument of Peace, a non-governmental organization which is actively engaged in training teachers in the field of human rights.

3. Training

122. Portugal is well aware of the importance of training in the prevention of violations of human rights. For a number of years, therefore, it has been providing systematic training for various professions, whose work is basic to the implementation of fundamental rights, freedoms and guarantees.

(a) The National College of Magistrates

123. Since its foundation, this College has provided training in the area of fundamental rights and the international machinery for their protection. Consequently, it is helping to make judicial magistrates aware of the value

and importance of international law, by studying the main instruments in force in Portugal. Because of its regional character, the European Convention on Human Rights is also given full coverage. On the other hand, the College and its students have been associated with several scientific and cultural activities for the dissemination of knowledge of international law and the work of the international organizations. One example is the seminar held in 1988 on the draft Convention on the Rights of the Child, which was mentioned above.

(b) The Bar

124. It is important to emphasize that the Bar has been involved in this work by training young lawyers, whose statutes require that they keep their terms before beginning to practise their profession. For example, the information given to them concerning appeals to the international authorities, whether the Strasbourg organs or the Human Rights Committee, has proved to be of crucial importance to them.

(c) The police forces

125. Following the modification of the statutes of the police forces, in 1985, the recruitment and training of the officers of the various police forces have changed considerably, especially in the area of public relations and of fundamental rights, guarantees and freedoms. As regards relations with the public, every officer must carry with him a code of conduct which emphasizes the purposes of police work, such as the defence of democratic legality and of the fundamental rights of the citizens, and includes standards of courtesy towards the public and a code of personal behaviour. The code states that the work of the police must be carried out impartially and with respect for the fundamental rights and freedoms, within the limits of the law and without resort to illegal or patently excessive methods. The training of these officers always includes an important chapter on rights, freedoms and guarantees, either during the basic training period or during ongoing training.

126. In addition to the historical development of human rights, the course deals with the universality of human rights, non-discrimination, information and legal protection, the activities of the Ombudsman and the courts, giving pride of place to the study of the regional and global protection systems. At this stage, the instruments studied include the Universal Declaration of Human Rights, the International Covenants on Human Rights, the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, and the European Convention on spectator violence and misbehaviour at sports events and in particular at football matches, all of which are in force in Portuguese domestic legislation.

127. It is interesting to note that, even as regards private security guards (permitted by Decree-Law No. 282/86 of 5 September 1986) their selection and recruitment must take into account the awareness of the obligations concerning the fundamental rights, freedoms and guarantees.

(d) The prison service

128. The prison service is given information, in Portuguese, concerning the main international instruments, particularly the Code of Conduct for Law Enforcement Officials; the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Standard Minimum Rules for the Treatment of Prisoners; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; and the European Prison Rules, as recently approved.

(e) The medical profession

129. Lastly, this concern for professional training and activities is undoubtedly reflected in the adoption of the Medical Ethics Code which, for example, establishes some principles concerning the use of torture. It enjoins refusal to surrender installations, instruments or drugs or to transmit scientific knowledge which would make it possible to resort to violence.

(f) The "citizen and justice" programme

130. A brief mention is necessary of the programme entitled "the citizen and justice", which was launched by the Ministry of Justice in the 1990s. Based on an awareness of the need to recognize human rights and to ensure their intrinsic protection by establishing rules and effective judicial guarantees, this programme aims in particular at bringing transparency to the administration of justice and making access to justice easier by setting up reception, information and legal advice offices for these purposes, and, in short, at strengthening confidence in the system of justice and rendering it clearer and more intelligible to all.

131. Within the framework of "the citizen and justice" programme a compendium of international human rights instruments, applicable to Portugal and in the Portuguese language, has been printed and widely distributed.

B. System of reporting to United Nations treaty bodies

132. Portugal recognizes that, in this area of information, training and sensitization with respect to human rights, its participation in the work being done in the United Nations to prepare new conventions or declarations on human rights is a major stimulus. This is certainly so in the case of the Working Group on the Rights of Persons Belonging to National, Ethnic, Religious or Linguistic Minorities, the working group that prepared the Convention on the Rights of the Child and the working group to draft a declaration on human rights defenders.

133. The very fact of preparing the reports submitted to the various human rights committees is also a decisive factor. While it is no doubt a very onerous task, it constitutes a basic method of assessing the extent to which international law is being applied and human rights implemented.

134. With the help of the advisory services of the Centre for Human Rights, seminars have been organized on the preparation of reports for submission to the United Nations human rights treaty bodies. These seminars, which bring together representatives of all the Portuguese-speaking countries, have made it possible to identify the difficulties encountered and to draw up coordination plans within the administration, and the Portuguese-speaking countries are henceforth assured of institutional assistance.

135. For the preparation of the reports, the Ministries of Justice and Foreign Affairs set up some years ago an informal cooperation structure which gathers information from the various technical departments and where appropriate, from NGOs - as in the case of the Convention on the Rights of the Child - concerning the implementation of human rights, their coordination and the drafting of reports. This model guarantees that there will be an ongoing evaluation and follow-up of all the work being done internally in the areas relating to the rights covered in the various legal instruments, while at the same time ensuring permanent contact with the major sectorial departments.

136. The work being carried out systematically with the courts, to disseminate a knowledge of international law, especially in the area of human rights, is also important. This is practical support which, on the one hand, takes the form of sending out circulars that, in general terms emphasize the importance of international law, especially the treaty provisions in force in Portuguese domestic legislation, and of responding, on the other hand, to any specific request regarding a case that is being considered. This occurred, very recently, in the case of the conscientious objectors.

137. This action leads the courts, particularly the Constitutional Court, to examine and base their decisions on international law instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.